REMARKS

With entry of the present amendment claims 1, 3 and 5 to 49 are pending. Claim 2 has been cancelled to overcome the rejection under 35 U.S.C. § 112, second paragraph. Claims 50 to 53, directed to nonelected inventions restricted by the examiner, have been cancelled without prejudice or disclaimer to the filing of one or more divisional applications. No new matter has been added by these amendments.

No additional fees are believed due. However, the Director is hereby authorized to charge any deficit, or credit any overpayment, to Deposit Account No. 08-2525.

RESTRICTION REQUIREMENT

Applicants note that the Examiner has not rejoined process claims 50 to 53 because the compound claims were not deemed allowable. Further, the examiner notes that claims 50 to 53 are not free of 112 issues. To advance prosecution, applicants have cancelled the process claims without prejudice or disclaimer to the filing of one or more divisional applications. Applicants note that cancellation is not made for any reason of patentability as no examination of these claims has been made. Applicants further note that even if there were issues under 112, as alleged by the examiner, this would not be a proper basis for denying rejoinder of the claims.

REJECTION OF CLAIM 2UNDER 35 U.S.C. § 112 SECOND PARAGRAPH

Claim 2 stands rejected as being a duplicate of Claim 1. Claim 2 has been cancelled rendering this rejection moot.

PROVISIONAL REJECTION OF CLAIMS 1 TO 3 AND 5 TO 49 UNDER THE JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS-TYPE DOUBLE PATENTING

Claims 1 to 3 and 5 to 49 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1 to 68 of copending application no. 10/666,594. Applicants traverse this rejection as improper for at last the following reasons.

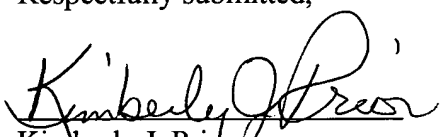
The examiner states that "a terminal disclaimer is required to overcome any **provisional** obviousness-type double patenting rejection because it is possible that the other application could issue before the instant application." Applicants respectfully disagree and kindly direct the examiner attention to M.P.E.P. § 804(I)(B), which specifically states that the patent office is policy where "the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the examiner ***should then withdraw that rejection and permit the application to issue as a patent***, thereby converting the 'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent." (Emphasis added). All other issues of patentability in the instant application have been resolved. Therefore, maintenance of the provisional double patenting rejection is improper.

For at least these reasons applicants respectfully request reconsideration and withdrawal of this rejection.

The foregoing amendment is fully responsive to the Office Action issued May 12, 2005. Applicants submit that Claims 1, 3 and 5 to 53 are allowable. Early and favorable consideration is earnestly solicited.

If the Examiner believes there are other issues that can be resolved by telephone interview, or that there are any informalities remaining in the application which may be corrected by Examiner's Amendment, a telephone call to the undersigned attorney is respectfully solicited.

Respectfully submitted,



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